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 8 Attorneys for Plaintiffs  
 9 808 Holdings, LLC

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**UNITED STATES DISTRICT COURT**

**SOUTHERN DISTRICT OF CALIFORNIA, SAN DIEGO DIVISION**

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 20 808 HOLDINGS, LLC, a California limited ) Case No.: 3:12-CV-215-MMA-RBB  
 21 liability company, )  
 22 Plaintiff, ) **COMPLAINT FOR:**  
 23 vs. )  
 24 COLLECTIVE OF DECEMBER 30, 2011 ) (1) **DIRECT COPYRIGHT**  
 25 SHARING HASH ) **INFRINGEMENT -17 U.S.C. §501;**  
 26 E37917C8EEB4585E6421358FF32F29CD63 ) (2) **CONTRIBUTORY COPYRIGHT**  
 27 C23C91ON, and DOES 1 through 54, ) **INFRINGEMENT; and**  
 28 inclusive, ) (3) **NEGLIGENCE**  
 29 Defendants. )

30  
 31 Plaintiff, 808 Holdings, LLC (“808 Holdings” or “Plaintiff”) brings and files this complaint  
 32 against multiple unknown Defendants and alleges as follows:

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**I. NATURE OF THE CASE**

35 1. 808 Holdings is the registered owner, and exclusive right holder, of the copyright for  
 36 the motion picture, “Brandon & Pierce Unwrapped” (hereinafter the “Motion Picture”). Plaintiff is  
 37 informed and believes and based thereon alleges that the U.S. Copyright Office received Plaintiff’s  
 38 full and complete copyright application on or about December 22, 2011. Receipt of a full and  
 39 complete copyright application satisfies the registration requirements of the U.S. Copyright Office  
 40 as well as this jurisdiction. Therefore, Plaintiff holds a federally registered copyright of the Motion  
 41 Picture from the United States Copyright Office.

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1       2. All DOE Defendants sued herein (collectively “Defendants”), who’s personally  
 2 identifiable information is currently unknown, acted in a collective and interdependent manner to  
 3 infringe Plaintiff’s copyright protected work using BitTorrent file transfer protocol.

4       3. Because of the relative simplicity and ease of BitTorrent, even a single unlawful  
 5 copy is extremely damaging to Plaintiff’s intellectual property rights. Each time a Defendant  
 6 unlawfully distributes Plaintiff’s Motion Picture to others, those individuals can then distribute that  
 7 infringing copy to others in an interconnected collective that builds upon itself with each new  
 8 distribution. The collective builds upon its prior infringements to grow infinitely larger effectuating  
 9 a worldwide epidemic of infringements upon Plaintiff’s copyright protected work.

10      4. Plaintiff seeks relief for the Defendants’ systematic and continuous infringement of  
 11 Plaintiff’s copyright in the Motion Picture, and for injunctive relief to interdict the Defendants from  
 12 continuing their unabashed infringement of Plaintiff’s exclusive rights.

## 13                   **II. JURISDICTION AND VENUE**

14      5. This Court has subject matter jurisdiction over Plaintiff’s claims for copyright  
 15 infringement and related claims pursuant to 17 U.S.C. §§ 101, et seq., and 28 U.S.C. §§ 1331 and  
 16 1331(a).

17      6. Defendants reside in, solicit, transact, and/or are doing business within the  
 18 jurisdiction of this Court; they have committed unlawful and intentional tortious acts both within  
 19 and outside the jurisdiction of this Court with the full knowledge that their acts would cause injury  
 20 in this jurisdiction. As such, Defendants have sufficient contacts with this judicial district to permit  
 21 the Court’s exercise of personal jurisdiction over each.

22      7. Plaintiff’s claims arise out of the Defendants’ conduct that gives rise to personal  
 23 jurisdiction over Defendants. In taking the affirmative action of both downloading and uploading  
 24 an audiovisual file of Plaintiff’s Motion Picture, Defendants engaged in intentional acts. As the file  
 25 contained Plaintiff’s business address in this jurisdiction, Defendants knew or should have known -  
 26 and only could not have known through willful blindness - that the copyright belonged to an entity  
 27 residing in this jurisdiction and thus Defendants expressly targeted their infringing actions and  
 28 caused damages so as to take place in this Court’s jurisdiction.

1           8. Plaintiff is well-known as a California corporation and the adult entertainment  
2 industry as a whole, including Plaintiff's corporation, is commonly known to be centered  
3 throughout the State of California. There was clearly foreseeable harm in this jurisdiction, and  
4 Defendants' conduct caused harm that they knew or should have known was likely to be suffered in  
5 this forum.

6        9.      Venue is proper in this Court pursuant to 28 U.S.C. §§§ 1391(b)(2) and 1400(a). As  
7 this is a copyright infringement action, venue is proper in any judicial district in which a Defendant  
8 resides or may be found. Furthermore, although the true identities of each and every member of the  
9 collective formed by the Defendants is unknown to the Plaintiff at this time, on information and  
10 belief, each Defendant may be found in this District and/or a substantial part of the infringing acts  
11 complained of occurred in this District. Defendants can reasonably anticipate being sued in this  
12 District.

### **III. THE PARTIES**

14        10.      808 Holdings is a limited liability company organized and existing under the laws of  
15      the State of California with its principal place of business in San Diego, California. 808 Holdings  
16      does business under the names “Cody Media” and “SeanCody.com”.

17       11. The true names and capacities, whether individual, corporate, associate or otherwise,  
18 of Defendants are unknown to Plaintiff, who therefore sues said Defendants by such fictitious  
19 names. Each Defendant is presently known to Plaintiff only by the unique Internet Protocol (“IP”)  
20 address, which was assigned to them by each Defendants’ Internet Service Provider (“ISP”) on the  
21 specific date and at the specific time at which the infringing activity of each Defendant was  
22 observed. The IP address of the account each Defendant used to access the Internet, together with  
23 the date and time at which his or her infringing activity was observed is alleged herein below.

24       12. The Defendants are a group of BitTorrent users - “peers” - whose computers are  
25 collectively interconnected and interdependent on each other for the sharing of a unique file,  
26 otherwise known as a “swarm”. Each and every BitTorrent swarm is associated with a specific and  
27 unique “hash”. A hash is a unique identifier for a particular file (in this action, Plaintiff’s Motion  
28 Picture), created by an algorithm developed and implemented by the National Security Agency.

1 The unique hash file associated with the Motion Picture in the instant action is identified as  
 2 E37917C8EEB4585E6421358FF32F29CD63C23C91 (herein identified as “E379 Hash”).

3       13. All of the Defendants republished and duplicated Plaintiff’s Motion Picture. They  
 4 not only replicated the exact same Motion Picture, but all of the Defendants republished,  
 5 duplicated, and replicated the exact same copy and exact same hash file. Thus, all Defendants  
 6 replicated and shared with each other the precise and exact same file and portions thereof in a  
 7 completely interconnected and collective effort - dependent on one another to achieve their  
 8 nefarious ends - to deprive Plaintiff of the exclusive rights afforded to it via the Copyright Act.

9       14. Plaintiff is informed and believes and based thereon alleges that each of the  
 10 Defendants, was and is the agent of the other Defendants, acting within the purpose and scope of  
 11 said agency. Plaintiff is further informed and believes and based thereon alleges that each of the  
 12 Defendants, authorized and ratified the conduct herein alleged of each of the other Defendants.

13       15. Plaintiff believes that information obtained in discovery will lead to the  
 14 identification of Defendants’ true names and permit Plaintiff to amend this Complaint to state the  
 15 same. Plaintiff will amend this Complaint to include their proper names and capacities when  
 16 Plaintiff has determined those names.

17       16. Plaintiff is informed and believes, and based thereon alleges, that each of the  
 18 Defendants performed, participated in, abetted in some manner, and are responsible for, the acts  
 19 described in this Complaint and proximately caused the damages resulting therefrom.

20       17. Defendants engaged in their copyright infringement scheme together. They all used  
 21 the same torrent-sharing technology to coordinate their collective copyright theft; they were all  
 22 members of the same exact swarm on the same exact date; they all used the same exact tracker file;  
 23 they all shared and republished the same exact motion picture; and they all shared the same exact  
 24 hash file of the Motion Picture with each other and other individuals on the same exact date,  
 25 December 30, 2011.

26       18. The torrent swarm in this case is not an actual entity, but is rather made up of at least  
 27 39 individuals, acting in concert with each other, to achieve the common goal of infringing upon  
 28 the Plaintiff’s copyrights both by illegal duplication and distribution of Plaintiff’s Motion Picture.

**Defendant Doe 1**

19. Defendant Doe 1 is unknown, but used the following IP address: 68.114.136.41.

3        20.      Defendant Doe 1, without authorization, reproduced and distributed Plaintiff's  
4 copyright protected Motion Picture by downloading bits of the digital file identified as Hash E379  
5 from various BitTorrent peers. As Defendant Doe 1 downloaded pieces of the file from these peers,  
6 he made those pieces available for immediate, as well as future, downloading by other BitTorrent  
7 peers including the other Defendants.

21. The infringing activity took place on December 30, 2011 at 2:48 AM UTC.

9       22. Plaintiff is informed and believes and based thereon alleges that Defendant  
10 continued to make pieces of the hash file available to other torrent peers for *at least* the remainder  
11 of the day, thereby making the Motion Picture, or pieces of it, available for the other swarm  
12 members, including the subsequently named Defendants.

13       23.     Doe 1 was the first one detected distributing the Motion Picture, Doe 1 is, on  
14 information and belief, the initial propagator of the E379 in the torrent swarm of December 30,  
15 2011.

**Defendant Doe 2**

24. Defendant Doe 2 is unknown, but used the following IP address: 67.170.159.109

18       25.     Doe 2 used this IP address to conduct the illegal activities complained of herein,  
19 including, but not limited to, the illegal distribution and republication of Plaintiff's copyright  
20 protected Motion Picture. Defendant conducted his infringing activities through the use of the  
21 E379 Hash to an incalculable number of other individuals, including those named in the instant  
22 action.

23        26. The infringing activity took place on December 30, 2011 at 3:09 AM UTC, 21  
24 minutes after Doe 1.

**Defendant Doe 3**

27. Defendant Doe 3 is unknown, but used the following IP address: 98.234.238.199.

27       28.     Doe 3 used this IP address to conduct the illegal activities complained of herein,  
28 including, but not limited to, the illegal distribution and republication of Plaintiff's copyright

1 protected Motion Picture. Defendant conducted his infringing activities through the use of the  
2 E379 Hash to an incalculable number of other individuals, including those named in the instant  
3 action.

4           29. The infringing activity took place on December 30, 2011 at 4:26 AM UTC, 1 hour  
5 and 17 minutes after Doe 2.

**Defendant Doe 4**

7 30. Defendant Doe 4 is unknown, but used the following IP address: 68.107.250.207.

8       31.     Doe 4 used this IP address to conduct the illegal activities complained of herein,  
9 including, but not limited to, the illegal distribution and republication of Plaintiff's copyright  
10 protected Motion Picture. Defendant conducted his infringing activities through the use of the  
11 E379 Hash to an incalculable number of other individuals, including those named in the instant  
12 action.

13           32. The infringing activity took place on December 30, 2011 at 4:42 AM UTC, 16  
14 minutes after Doe 3.

## **Defendant Doe 5**

33. Defendant Doe 5 is unknown, but used the following IP address: 66.214.165.228.

17       34.     Doe 5 used this IP address to conduct the illegal activities complained of herein,  
18 including, but not limited to, the illegal distribution and republication of Plaintiff's copyright  
19 protected Motion Picture. Defendant conducted his infringing activities through the use of the  
20 E379 Hash to an incalculable number of other individuals, including those named in the instant  
21 action.

22        35. The infringing activity took place on December 30, 2011 at 5:31 AM UTC, 49  
23 minutes after Doe 4

Defendant Doe 6

36. Defendant Doe 6 is unknown, but used the following IP address: 67.190.119.77.

26       37.     Doe 6 used this IP address to conduct the illegal activities complained of herein,  
27 including, but not limited to, the illegal distribution and republication of Plaintiff's copyright  
28 protected Motion Picture. Defendant conducted his infringing activities through the use of the

1 E379 Hash to an incalculable number of other individuals, including those named in the instant  
2 action.

3           38. The infringing activity took place on December 30, 2011 at 6:56 AM UTC, 1 hour  
4 and 25 minutes after Doe 5.

**Defendant Doe 7**

6 39. Defendant Doe 7 is unknown, but used the following IP address: 24.22.134.27.

7       40.     Doe 7 used this IP address to conduct the illegal activities complained of herein,  
8 including, but not limited to, the illegal distribution and republication of Plaintiff's copyright  
9 protected Motion Picture. Defendant conducted his infringing activities through the use of the  
10 E379 Hash to an incalculable number of other individuals, including those named in the instant  
11 action.

12        41. The infringing activity took place on December 30, 2011 at 7:00 AM UTC, 4  
13 minutes after Doe 6.

**Defendant Doe 8**

15 ||| 42. Defendant Doe 8 is unknown, but used the following IP address: 75.83.200.252.

16       43.     Doe 8 used this IP address to conduct the illegal activities complained of herein,  
17 including, but not limited to, the illegal distribution and republication of Plaintiff's copyright  
18 protected Motion Picture. Defendant conducted his infringing activities through the use of the  
19 E379 Hash to an incalculable number of other individuals, including those named in the instant  
20 action.

21           44. The infringing activity took place on December 30, 2011 at 7:03 AM UTC, 3  
22 minutes after Doe 7.

**Defendant Doe 9**

24           45. Defendant Doe 9 is unknown, but used the following IP address: 98.202.105.168.

25       46.     Doe 9 used this IP address to conduct the illegal activities complained of herein,  
26 including, but not limited to, the illegal distribution and republication of Plaintiff's copyright  
27 protected Motion Picture. Defendant conducted his infringing activities through the use of the

28 | //

1 E379 Hash to an incalculable number of other individuals, including those named in the instant  
2 action.

3           47. The infringing activity took place on December 30, 2011 at 7:23 AM UTC, 20  
4 minutes after Doe 8.

**Defendant Doe 10**

6 48. Defendant Doe 10 is unknown, but used the following IP address: 108.69.252.109.

7       49.     Doe 10 used this IP address to conduct the illegal activities complained of herein,  
8 including, but not limited to, the illegal distribution and republication of Plaintiff's copyright  
9 protected Motion Picture. Defendant conducted his infringing activities through the use of the  
10 E379 Hash to an incalculable number of other individuals, including those named in the instant  
11 action.

12        50.      The infringing activity took place on December 30, 2011 at 8:06 AM UTC, 43  
13 minutes after Doe 9.

Defendant Doe 11

15 ||| 51. Defendant Doe 11 is unknown, but used the following IP address: 76.170.64.128.

16       52.     Doe 11 used this IP address to conduct the illegal activities complained of herein,  
17 including, but not limited to, the illegal distribution and republication of Plaintiff's copyright  
18 protected Motion Picture. Defendant conducted his infringing activities through the use of the  
19 E379 Hash to an incalculable number of other individuals, including those named in the instant  
20 action.

21       53. The infringing activity took place on December 30, 2011 at 1:56 PM UTC, 5 hours  
22 and 50 minutes after Doe 10.

## Defendant Doe 12

24 54. Defendant Doe 12 is unknown, but used the following IP address: 24.6.81.187.

25       55.     Doe 12 used this IP address to conduct the illegal activities complained of herein,  
26 including, but not limited to, the illegal distribution and republication of Plaintiff's copyright  
27 protected Motion Picture. Defendant conducted his infringing activities through the use of the

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1 E379 Hash to an incalculable number of other individuals, including those named in the instant  
2 action.

3           56. The infringing activity took place on December 30, 2011 at 5:36 PM UTC, 3 hours  
4 and 40 minutes after Doe 11.

**Defendant Doe 13**

6 57. Defendant Doe 13 is unknown, but used the following IP address: 98.247.162.176.

7       58.     Doe 13 used this IP address to conduct the illegal activities complained of herein,  
8 including, but not limited to, the illegal distribution and republication of Plaintiff's copyright  
9 protected Motion Picture. Defendant conducted his infringing activities through the use of the  
10 E379 Hash to an incalculable number of other individuals, including those named in the instant  
11 action.

12        59.      The infringing activity took place on December 30, 2011 at 5:41 PM UTC, 5  
13 minutes after Doe 12.

Defendant Doe 14

15 60. Defendant Doe 14 is unknown, but used the following IP address: 67.177.243.250

16       61.     Doe 14 used this IP address to conduct the illegal activities complained of herein,  
17 including, but not limited to, the illegal distribution and republication of Plaintiff's copyright  
18 protected Motion Picture. Defendant conducted his infringing activities through the use of the  
19 E379 Hash to an incalculable number of other individuals, including those named in the instant  
20 action.

62. The infringing activity took place on December 30, 2011 at 5:41 PM UTC, at the  
exact same time as Doe 13.

Defendant Doe 15

63. Defendant Doe 15 is unknown, but used the following IP address: 50.129.100.58.

25       64.     Doe 15 used this IP address to conduct the illegal activities complained of herein,  
26 including, but not limited to, the illegal distribution and republication of Plaintiff's copyright  
27 protected Motion Picture. Defendant conducted his infringing activities through the use of the

1 E379 Hash to an incalculable number of other individuals, including those named in the instant  
2 action.

3           65. The infringing activity took place on December 30, 2011 at 5:41 PM UTC, at the  
4 exact same time as Doe 14.

**Defendant Doe 16**

6 66. Defendant Doe 16 is unknown, but used the following IP address: 68.202.87.235.

7       67.     Doe 16 used this IP address to conduct the illegal activities complained of herein,  
8 including, but not limited to, the illegal distribution and republication of Plaintiff's copyright  
9 protected Motion Picture. Defendant conducted his infringing activities through the use of the  
10 E379 Hash to an incalculable number of other individuals, including those named in the instant  
11 action.

12        68. The infringing activity took place on December 30, 2011 at 5:42 PM UTC, 1 minute  
13 after Doe 15.

Defendant Doe 17

15 ||| 69. Defendant Doe 17 is unknown, but used the following IP address: 67.55.179.218.

16       70.     Doe 17 used this IP address to conduct the illegal activities complained of herein,  
17 including, but not limited to, the illegal distribution and republication of Plaintiff's copyright  
18 protected Motion Picture. Defendant conducted his infringing activities through the use of the  
19 E379 Hash to an incalculable number of other individuals, including those named in the instant  
20 action.

21           71. The infringing activity took place on December 30, 2011 at 5:47 PM UTC, 5  
22 minutes after Doe 16.

Defendant Doe 18

72. Defendant Doe 18 is unknown, but used the following IP address: 98.239.186.69.

25       73.     Doe 18 used this IP address to conduct the illegal activities complained of herein,  
26 including, but not limited to, the illegal distribution and republication of Plaintiff's copyright  
27 protected Motion Picture. Defendant conducted his infringing activities through the use of the

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1 E379 Hash to an incalculable number of other individuals, including those named in the instant  
2 action.

3           74. The infringing activity took place on December 30, 2011 at 5:49 PM UTC, 2  
4 minutes after Doe 17.

**Defendant Doe 19**

6 75. Defendant Doe 19 is unknown, but used the following IP address: 98.254.227.157.

7       76.     Doe 19 used this IP address to conduct the illegal activities complained of herein,  
8 including, but not limited to, the illegal distribution and republication of Plaintiff's copyright  
9 protected Motion Picture. Defendant conducted his infringing activities through the use of the  
10 E379 Hash to an incalculable number of other individuals, including those named in the instant  
11 action.

12        77. The infringing activity took place on December 30, 2011 at 5:57 PM UTC, 8  
13 minutes after Doe 18.

Defendant Doe 20

15 ||| 78. Defendant Doe 20 is unknown, but used the following IP address: 98.801.18.37.

16        79.     Doe 20 used this IP address to conduct the illegal activities complained of herein,  
17 including, but not limited to, the illegal distribution and republication of Plaintiff's copyright  
18 protected Motion Picture. Defendant conducted his infringing activities through the use of the  
19 E379 Hash to an incalculable number of other individuals, including those named in the instant  
20 action.

21           80.     The infringing activity took place on December 30, 2011 at 6:08 PM UTC, 11  
22 minutes after Doe 19.

Defendant Doe 21

24 81. Defendant Doe 21 is unknown, but used the following IP address: 71.162.23.184

25       82.     Doe 21 used this IP address to conduct the illegal activities complained of herein,  
26 including, but not limited to, the illegal distribution and republication of Plaintiff's copyright  
27 protected Motion Picture. Defendant conducted his infringing activities through the use of the

1 E379 Hash to an incalculable number of other individuals, including those named in the instant  
2 action.

3           83. The infringing activity took place on December 30, 2011 at 6:10 PM UTC, 2  
4 minutes after Doe 20.

**Defendant Doe 22**

6 84. Defendant Doe 22 is unknown, but used the following IP address: 184.79.24.250.

7       85.     Doe 22 used this IP address to conduct the illegal activities complained of herein,  
8 including, but not limited to, the illegal distribution and republication of Plaintiff's copyright  
9 protected Motion Picture. Defendant conducted his infringing activities through the use of the  
10 E379 Hash to an incalculable number of other individuals, including those named in the instant  
11 action.

12        86. The infringing activity took place on December 30, 2011 at 6:11 PM UTC, 1 minute  
13 after Doe 21.

Defendant Doe 23

15 87. Defendant Doe 23 is unknown, but used the following IP address: 24.13.168.114.

16       88.     Doe 23 used this IP address to conduct the illegal activities complained of herein,  
17 including, but not limited to, the illegal distribution and republication of Plaintiff's copyright  
18 protected Motion Picture. Defendant conducted his infringing activities through the use of the  
19 E379 Hash to an incalculable number of other individuals, including those named in the instant  
20 action.

21        89. The infringing activity took place on December 30, 2011 at 6:11 PM UTC, at the  
22 exact same time as Doe 22.

Defendant Doe 24

90. Defendant Doe 24 is unknown, but used the following IP address: 24.178.186.3.

25        91.      Doe 24 used this IP address to conduct the illegal activities complained of herein,  
26 including, but not limited to, the illegal distribution and republication of Plaintiff's copyright  
27 protected Motion Picture. Defendant conducted his infringing activities through the use of the

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1 E379 Hash to an incalculable number of other individuals, including those named in the instant  
2 action.

3           92. The infringing activity took place on December 30, 2011 at 6:11 PM UTC, at the  
4 exact same time as Doe 22 and Doe 23.

**Defendant Doe 25**

6 ||| 93. Defendant Doe 25 is unknown, but used the following IP address: 71.22.158.153.

7       94.     Doe 25 used this IP address to conduct the illegal activities complained of herein,  
8 including, but not limited to, the illegal distribution and republication of Plaintiff's copyright  
9 protected Motion Picture. Defendant conducted his infringing activities through the use of the  
10 E379 Hash to an incalculable number of other individuals, including those named in the instant  
11 action.

12        95.      The infringing activity took place on December 30, 2011 at 6:20 PM UTC, 9  
13 minutes after Doe 24.

Defendant Doe 26

15 96. Defendant Doe 26 is unknown, but used the following IP address: 72.93.241.177.

16       97.     Doe 26 used this IP address to conduct the illegal activities complained of herein,  
17 including, but not limited to, the illegal distribution and republication of Plaintiff's copyright  
18 protected Motion Picture. Defendant conducted his infringing activities through the use of the  
19 E379 Hash to an incalculable number of other individuals, including those named in the instant  
20 action.

21           98.     The infringing activity took place on December 30, 2011 at 6:23 PM UTC, 3  
22 minutes after Doe 25.

Defendant Doe 27

24 99. Defendant Doe 27 is unknown, but used the following IP address: 75.41.122.170.

25       100. Doe 27 used this IP address to conduct the illegal activities complained of herein,  
26 including, but not limited to, the illegal distribution and republication of Plaintiff's copyright  
27 protected Motion Picture. Defendant conducted his infringing activities through the use of the

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1 E379 Hash to an incalculable number of other individuals, including those named in the instant  
2 action.

3           101. The infringing activity took place on December 30, 2011 at 6:36 PM UTC, 13  
4 minutes after Doe 26.

**Defendant Doe 28**

6 102. Defendant Doe 28 is unknown, but used the following IP address: 207.181.235.17.

7       103.   Doe 28 used this IP address to conduct the illegal activities complained of herein,  
8 including, but not limited to, the illegal distribution and republication of Plaintiff's copyright  
9 protected Motion Picture. Defendant conducted his infringing activities through the use of the  
10 E379 Hash to an incalculable number of other individuals, including those named in the instant  
11 action.

12           104. The infringing activity took place on December 30, 2011 at 6:41 PM UTC, 4  
13 minutes after Doe 27.

Defendant Doe 29

105. Defendant Doe 29 is unknown, but used the following IP address: 97.82.165.151.

16        106. Doe 29 used this IP address to conduct the illegal activities complained of herein,  
17 including, but not limited to, the illegal distribution and republication of Plaintiff's copyright  
18 protected Motion Picture. Defendant conducted his infringing activities through the use of the  
19 E379 Hash to an incalculable number of other individuals, including those named in the instant  
20 action.

107. The infringing activity took place on December 30, 2011 at 6:41 PM UTC, at the  
exact same time as Doe 28.

Defendant Doe 30

24 108. Defendant Doe 30 is unknown, but used the following IP address: 76.179.14.95.

25       109. Doe 30 used this IP address to conduct the illegal activities complained of herein,  
26 including, but not limited to, the illegal distribution and republication of Plaintiff's copyright  
27 protected Motion Picture. Defendant conducted his infringing activities through the use of the

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1 E379 Hash to an incalculable number of other individuals, including those named in the instant  
2 action.

3           110. The infringing activity took place on December 30, 2011 at 6:51 PM UTC, 10  
4 minutes after Doe 29.

**Defendant Doe 31**

6 111. Defendant Doe 31 is unknown, but used the following IP address: 71.234.99.7.

7       112. Doe 30 used this IP address to conduct the illegal activities complained of herein,  
8 including, but not limited to, the illegal distribution and republication of Plaintiff's copyright  
9 protected Motion Picture. Defendant conducted his infringing activities through the use of the  
10 E379 Hash to an incalculable number of other individuals, including those named in the instant  
11 action.

12        113. The infringing activity took place on December 30, 2011 at 6:59 PM UTC, 3  
13 minutes after Doe 30.

Defendant Doe 32

114. Defendant Doe 32 is unknown, but used the following IP address: 71.59.73.78.

16        115. Doe 32 used this IP address to conduct the illegal activities complained of herein,  
17 including, but not limited to, the illegal distribution and republication of Plaintiff's copyright  
18 protected Motion Picture. Defendant conducted his infringing activities through the use of the  
19 E379 Hash to an incalculable number of other individuals, including those named in the instant  
20 action.

116. The infringing activity took place on December 30, 2011 at 7:00 PM UTC, 1 minute  
after Doe 31.

Defendant Doe 33

24 117. Defendant Doe 33 is unknown, but used the following IP address: 72.219.143.99.

25        118. Doe 33 used this IP address to conduct the illegal activities complained of herein,  
26 including, but not limited to, the illegal distribution and republication of Plaintiff's copyright  
27 protected Motion Picture. Defendant conducted his infringing activities through the use of the

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1 E379 Hash to an incalculable number of other individuals, including those named in the instant  
2 action.

3           119. The infringing activity took place on December 30, 2011 at 7:05 PM UTC, 5  
4 minutes after Doe 32.

**Defendant Doe 34**

6 120. Defendant Doe 34 is unknown, but used the following IP address: 99.60.237.38.

7       121. Doe 34 used this IP address to conduct the illegal activities complained of herein,  
8 including, but not limited to, the illegal distribution and republication of Plaintiff's copyright  
9 protected Motion Picture. Defendant conducted his infringing activities through the use of the  
10 E379 Hash to an incalculable number of other individuals, including those named in the instant  
11 action.

12        122. The infringing activity took place on December 30, 2011 at 7:07 PM UTC, 2  
13 minutes after Doe 33.

## **Defendant Doe 35**

15 ||| 123. Defendant Doe 35 is unknown, but used the following IP address: 107.10.59.217.

16       124. Doe 35 used this IP address to conduct the illegal activities complained of herein,  
17 including, but not limited to, the illegal distribution and republication of Plaintiff's copyright  
18 protected Motion Picture. Defendant conducted his infringing activities through the use of the  
19 E379 Hash to an incalculable number of other individuals, including those named in the instant  
20 action.

125. The infringing activity took place on December 30, 2011 at 7:20 PM UTC, 13  
minutes after Doe 34.

Defendant Doe 36

24 126. Defendant Doe 36 is unknown, but used the following IP address: 66.25.61.166.

25       127. Doe 36 used this IP address to conduct the illegal activities complained of herein,  
26 including, but not limited to, the illegal distribution and republication of Plaintiff's copyright  
27 protected Motion Picture. Defendant conducted his infringing activities through the use of the

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1 E379 Hash to an incalculable number of other individuals, including those named in the instant  
2 action.

3           128. The infringing activity took place on December 30, 2011 at 7:22 PM UTC, 2 minute  
4 after Doe 35.

## **Defendant Doe 37**

6 ||| 129. Defendant Doe 37 is unknown, but used the following IP address: 98.242.241.43

7       130.   Doe 37 used this IP address to conduct the illegal activities complained of herein,  
8 including, but not limited to, the illegal distribution and republication of Plaintiff's copyright  
9 protected Motion Picture. Defendant conducted his infringing activities through the use of the  
10 E379 Hash to an incalculable number of other individuals, including those named in the instant  
11 action.

12        131. The infringing activity took place on December 30, 2011 at 7:54 PM UTC, 31  
13 minutes after Doe 36.

**Defendant Doe 38**

132. Defendant Doe 38 is unknown, but used the following IP address: 67.180.76.219.

16       133. Doe 38 used this IP address to conduct the illegal activities complained of herein,  
17 including, but not limited to, the illegal distribution and republication of Plaintiff's copyright  
18 protected Motion Picture. Defendant conducted his infringing activities through the use of the  
19 E379 Hash to an incalculable number of other individuals, including those named in the instant  
20 action.

134. The infringing activity took place on December 30, 2011 at 7:55 PM UTC, 1 minute  
after Doe 37.

**Defendant Doe 39**

24 135. Defendant Doe 39 is unknown, but used the following IP address: 71.172.185.29.

136. Doe 39 used this IP address to conduct the illegal activities complained of herein,  
including, but not limited to, the illegal distribution and republication of Plaintiff's copyright  
protected Motion Picture. Defendant conducted his infringing activities through the use of the

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1 E379 Hash to an incalculable number of other individuals, including those named in the instant  
2 action.

3           137. The infringing activity took place on December 30, 2011 at 8:03 PM UTC, 8  
4 minutes after Doe 38.

**Defendant Doe 40**

6 138. Defendant Doe 40 is unknown, but used the following IP address: 98.157.155.140.

7       139. Doe 40 used this IP address to conduct the illegal activities complained of herein,  
8 including, but not limited to, the illegal distribution and republication of Plaintiff's copyright  
9 protected Motion Picture. Defendant conducted his infringing activities through the use of the  
10 E379 Hash to an incalculable number of other individuals, including those named in the instant  
11 action.

12        140. The infringing activity took place on December 30, 2011 at 8:06 PM UTC, at the  
13 exact same time as Doe 39.

**Defendant Doe 41**

141. Defendant Doe 41 is unknown, but used the following IP address: 768.183.18.205...

16       142. Doe 41 used this IP address to conduct the illegal activities complained of herein,  
17 including, but not limited to, the illegal distribution and republication of Plaintiff's copyright  
18 protected Motion Picture. Defendant conducted his infringing activities through the use of the  
19 E379 Hash to an incalculable number of other individuals, including those named in the instant  
20 action.

143. The infringing activity took place on December 30, 2011 at 8:13 PM UTC, 7  
minutes after Doe 40.

## **Defendant Doe 42**

24 144. Defendant Doe 42 is unknown, but used the following IP address: 69.217.174.188.

25       145. Doe 42 used this IP address to conduct the illegal activities complained of herein,  
26 including, but not limited to, the illegal distribution and republication of Plaintiff's copyright  
27 protected Motion Picture. Defendant conducted his infringing activities through the use of the

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1 E379 Hash to an incalculable number of other individuals, including those named in the instant  
2 action.

3           146. The infringing activity took place on December 30, 2011 at 8:18 PM UTC, 5  
4 minutes after Doe 41.

**Defendant Doe 43**

6 147. Defendant Doe 43 is unknown, but used the following IP address: 98.218.232.202.

7       148. Doe 43 used this IP address to conduct the illegal activities complained of herein,  
8 including, but not limited to, the illegal distribution and republication of Plaintiff's copyright  
9 protected Motion Picture. Defendant conducted his infringing activities through the use of the  
10 E379 Hash to an incalculable number of other individuals, including those named in the instant  
11 action.

12        149. The infringing activity took place on December 30, 2011 at 8:25 PM UTC, 7  
13 minutes after Doe 42.

Defendant Doe 44

15 150. Defendant Doe 44 is unknown, but used the following IP address: 209.6.133.220.

16        151. Doe 44 used this IP address to conduct the illegal activities complained of herein,  
17 including, but not limited to, the illegal distribution and republication of Plaintiff's copyright  
18 protected Motion Picture. Defendant conducted his infringing activities through the use of the  
19 E379 Hash to an incalculable number of other individuals, including those named in the instant  
20 action.

152. The infringing activity took place on December 30, 2011 at 8:51 PM UTC, 26  
minutes after Doe 43.

Defendant Doe 45

24 153. Defendant Doe 45 is unknown, but used the following IP address: 98.213.166.208.

25       154. Doe 45 used this IP address to conduct the illegal activities complained of herein,  
26 including, but not limited to, the illegal distribution and republication of Plaintiff's copyright  
27 protected Motion Picture. Defendant conducted his infringing activities through the use of the  
28 //

1 E379 Hash to an incalculable number of other individuals, including those named in the instant  
2 action.

3           155. The infringing activity took place on December 30, 2011 at 8:55 PM UTC, 4  
4 minutes after Doe 44.

**Defendant Doe 46**

6 156. Defendant Doe 46 is unknown, but used the following IP address: 68.35.68.74.

7       157. Doe 46 used this IP address to conduct the illegal activities complained of herein,  
8 including, but not limited to, the illegal distribution and republication of Plaintiff's copyright  
9 protected Motion Picture. Defendant conducted his infringing activities through the use of the  
10 E379 Hash to an incalculable number of other individuals, including those named in the instant  
11 action.

12        158. The infringing activity took place on December 30, 2011 at 8:57 PM UTC, 2  
13 minutes after Doe 45.

Defendant Doe 47

15 159. Defendant Doe 47 is unknown, but used the following IP address: 76.21.171.5.

16       160.   Doe 47 used this IP address to conduct the illegal activities complained of herein,  
17 including, but not limited to, the illegal distribution and republication of Plaintiff's copyright  
18 protected Motion Picture. Defendant conducted his infringing activities through the use of the  
19 E379 Hash to an incalculable number of other individuals, including those named in the instant  
20 action.

161. The infringing activity took place on December 30, 2011 at 9:11 PM UTC, 14  
minutes after Doe 46.

## **Defendant Doe 48**

24 162. Defendant Doe 48 is unknown, but used the following IP address: 99.47.238.7.

163. Doe 48 used this IP address to conduct the illegal activities complained of herein,  
including, but not limited to, the illegal distribution and republication of Plaintiff's copyright  
protected Motion Picture. Defendant conducted his infringing activities through the use of the

1 E379 Hash to an incalculable number of other individuals, including those named in the instant  
2 action.

3           164. The infringing activity took place on December 30, 2011 at 9:22 PM UTC, 11  
4 minutes after Doe 47.

**Defendant Doe 49**

6 165. Defendant Doe 49 is unknown, but used the following IP address: 24.34.78.7.

7       166. Doe 49 used this IP address to conduct the illegal activities complained of herein,  
8 including, but not limited to, the illegal distribution and republication of Plaintiff's copyright  
9 protected Motion Picture. Defendant conducted his infringing activities through the use of the  
10 E379 Hash to an incalculable number of other individuals, including those named in the instant  
11 action.

12        167. The infringing activity took place on December 30, 2011 at 9:25 PM UTC, 3  
13 minutes after Doe 48.

Defendant Doe 50

15 168. Defendant Doe 50 is unknown, but used the following IP address: 174.19.149.29.

16       169. Doe 50 used this IP address to conduct the illegal activities complained of herein,  
17 including, but not limited to, the illegal distribution and republication of Plaintiff's copyright  
18 protected Motion Picture. Defendant conducted his infringing activities through the use of the  
19 E379 Hash to an incalculable number of other individuals, including those named in the instant  
20 action.

170. The infringing activity took place on December 30, 2011 at 9:50 PM UTC, 25  
minutes after Doe 49.

Defendant Doe 51

24 171. Defendant Doe 51 is unknown, but used the following IP address: 75.177.29.225.

25        172. Doe 51 used this IP address to conduct the illegal activities complained of herein,  
26 including, but not limited to, the illegal distribution and republication of Plaintiff's copyright  
27 protected Motion Picture. Defendant conducted his infringing activities through the use of the

1 E379 Hash to an incalculable number of other individuals, including those named in the instant  
2 action.

3           173. The infringing activity took place on December 30, 2011 at 9:51 PM UTC, 1 minute  
4 after Doe 50.

**Defendant Doe 52**

6 174. Defendant Doe 52 is unknown, but used the following IP address: 72.214.4.74.

7       175. Doe 52 used this IP address to conduct the illegal activities complained of herein,  
8 including, but not limited to, the illegal distribution and republication of Plaintiff's copyright  
9 protected Motion Picture. Defendant conducted his infringing activities through the use of the  
10 E379 Hash to an incalculable number of other individuals, including those named in the instant  
11 action.

12        176. The infringing activity took place on December 30, 2011 at 9:52 PM UTC, 1 minute  
13 after Doe 51.

Defendant Doe 53

15 177. Defendant Doe 53 is unknown, but used the following IP address: 216.252.198.52.

16       178. Doe 53 used this IP address to conduct the illegal activities complained of herein,  
17 including, but not limited to, the illegal distribution and republication of Plaintiff's copyright  
18 protected Motion Picture. Defendant conducted his infringing activities through the use of the  
19 E379 Hash to an incalculable number of other individuals, including those named in the instant  
20 action.

179. The infringing activity took place on December 30, 2011 at 9:52 PM UTC, at the  
exact same time as Doe 52.

Defendant Doe 54

24 180. Defendant Doe 54 is unknown, but used the following IP address: 74.244.4.144.

181. Doe 54 used this IP address to conduct the illegal activities complained of herein,  
including, but not limited to, the illegal distribution and republication of Plaintiff's copyright  
protected Motion Picture. Defendant conducted his infringing activities through the use of the

1 E379 Hash to an incalculable number of other individuals, including those named in the instant  
 2 action.

3       182. The infringing activity took place on December 30, 2011 at 9:55 PM UTC, 3  
 4 minutes after Doe 53.

#### 5                  **IV. COPYRIGHT AND BITTORRENT**

6       183. BitTorrent is a peer-to-peer file sharing protocol that allows quick downloading of  
 7 large files using minimum bandwidth. Unlike previously used technology, such as Limewire,  
 8 Kazaa, and Napster, BitTorrent allows for higher transfer speeds by locating pieces (or “bits”) of  
 9 the file already present on other users’ computers and downloading them simultaneously. This is  
 10 done by joining into the “swarm,” or collective, of peers to download and upload from each other  
 11 simultaneously. Such process allows for downloading of popular content, such as copyright  
 12 protected television shows and motion pictures, much faster than using alternative technology.

13      184. While the science of the BitTorrent process is admittedly convoluted, the process  
 14 each user goes through to download the file is quick and efficient. If a user wants to download a  
 15 media file, he effortlessly opens the corresponding file on a BitTorrent client application. Such  
 16 files can be readily found online or on infinite numbers of BitTorrent cataloging web sites.

17      185. The downloader’s BitTorrent client then extracts a list containing various tracker  
 18 locations which it then connects to that identifies IP addresses that have the file available. Each IP  
 19 address identifies an uploader who is **currently** running BitTorrent software on his computer and is  
 20 **currently** offering the file to distribute and copy. The downloader’s BitTorrent program then  
 21 begins downloading the motion picture file without any further action from the user.

22      186. The swarms conception begins with one initial user - called the “seed user” or  
 23 “seeder”. The seeder intentionally begins to share a file with a torrent swarm. The original file  
 24 thus contains Plaintiff’s entire copyrighted Motion Picture.

25      187. New members of the swarm then connect to the “seeder” to download the file. This  
 26 download creates an exact digital copy of Plaintiff’s copyrighted Motion Picture. As new  
 27 infringers join the swarm, the process repeats itself and expands the number of users in the  
 28 collective swarm to the thousands. Each member is concurrently uploading and downloading

1 portions of the same exact digital copy with each other. Thus, even if the initial seeder leaves the  
2 swarm, the file is already spread amongst the entire swarm and can be downloaded at will by old  
3 and new members of the swarm, even without the initial seeder.

4       188. This process causes the file to be broken up over hundreds of pieces ("bits") that  
5 make both downloading and uploading quicker and more efficient. Each bit is then immediately  
6 made available for distribution to others seeking the same file. The effect of this method of  
7 infringement means that every user who has a copy of the infringing material on a torrent network  
8 must necessarily also be a source for others to download that same material. Thus, even though the  
9 initial seeder may leave the swarm, every downloader becomes an uploader for those seeking the  
10 file.

11       189. The total number of users participating in the swarm at any given time increases the  
12 overall speed and efficiency at which all the other swarm members can download the entire file.  
13 Thus, each user relies on the other swarm members for not only specific bits of the audiovisual file  
14 he exchanges to or from specific users, but also he necessarily relies on *all* the other members of the  
15 swarm to increase the speed at which he is able to download the file. In effect, due to the nature of  
16 an infringing swarm, every infringer is - and by necessity together - simultaneously both stealing  
17 the Plaintiff's copyright protected material and redistributing it for others.

18       190. BitTorrent also polices itself to encourage the continued infringement of Plaintiff's  
19 copyrights. If a user should feel that they simply want to download the requested content without  
20 also serving as an uploading source for others, they become a "leecher". Leeching is discouraged  
21 by the swarm by stalling the downloads of leechers in order to preserve network speed for those  
22 who are also contributing to the swarm. Thus, BitTorrent is of no use to members unless they not  
23 only copy, but also distribute the work in question.

24       191. The Motion Picture at issue in this action is easily discernable as a professional  
25 work. Plaintiff is a premiere name in the adult entertainment industry and created the works using  
26 professional performers, directors, cinematographers, lighting technicians, set designers and editors.  
27 Plaintiff created each work with professional-grade cameras, lighting and editing equipment.

28       ///

1       192. Each of Plaintiff's works is marked with Plaintiff's trademark (Sean Cody) and a  
 2 statement as required by 18 U.S.C. § 2257 that age verification records for all individuals appearing  
 3 in the works are maintained at Plaintiff's corporate offices in San Diego, California.

4       193. At various times, Plaintiff discovered and documented Defendant DOES 1-54,  
 5 without authorization, copying and distributing by and through a BitTorrent network, the Motion  
 6 Picture owned by and registered to Plaintiff in violation of 17 U.S.C. §§ 106(1) and (3). By so  
 7 doing, Defendants have knowingly and purposefully infringed, and induced others to infringe,  
 8 Plaintiff's copyrighted works.

9       194. Defendants are contributing to a problem that threatens the profitability and viability  
 10 of Plaintiff. Although Plaintiff cannot determine at this time the precise amount of revenue that it  
 11 has lost as a result of the peer-to-peer file sharing of its works, through BitTorrent software, the  
 12 amount of that lost revenue is enormous.

13                   **V. ALL DEFENDANTS ARE MEMBERS OF THE SAME SWARM**

14       195. Defendants are all members of a single collective peer-to-peer (hereinafter "P2P")  
 15 network that was used for the unlawful infringement of Plaintiff's copyright protected Motion  
 16 Picture.

17       196. Defendants began this process by searching for and downloading BitTorrent  
 18 software that enabled them to search for and download Plaintiff's copyright protected work.

19       197. The unique identifier created by the National Security Agency associated with this  
 20 particular action is the E379 hash. Each and every Defendant is a member of the same collective  
 21 swarm associated with the E379 hash. Each acted collectively, and in concert, in effectuating the  
 22 illegal and unauthorized sharing of Plaintiff's copyrighted work.

23       198. Each and every Defendant was, or is, in possession of a computer that joined this  
 24 collective swarm for the purposes of illegally downloading Plaintiff's copyrighted work. Each and  
 25 every computer used by Defendants harbored, or still does harbor, Plaintiff's copyrighted work  
 26 which was downloaded through the same exact swarm, on the same exact date, sharing the same  
 27 exact hash file.

28       ///

1       199. Each and every Defendant unlawfully republished and redistributed Plaintiff's  
2 Motion Picture. Defendants did not merely share multiple copies of the Motion Picture, but shared  
3 the exact same copy (as all have the same exact hash file), through the exact same swarm, on the  
4 exact same date. Such evidence shows that Defendants acted in concert and linked together in a  
5 massive collective effort and conspiracy to infringe on Plaintiff's exclusive rights in the copyright  
6 protected Motion Picture.

7       200. Each Defendant used the same exact method of infringement by use of the  
8 BitTorrent file transfer protocol to upload and download Plaintiffs works. At no time did any  
9 Defendant have permission or license from Plaintiff to copy, distribute or publish the Motion  
10 Picture.

11       201. After each Defendant had possession of the tracker file to find and locate each other  
12 member of the infringing swarm, each and every Defendant used that information to connect to  
13 other Defendants for the purpose of sharing Plaintiff's copyright protected work with other  
14 members of the swarm.

15       202. Each and every Defendant then joined the same exact swarm, acting in concert and  
16 in a collective nature to upload and download the same exact motion picture, using the same exact  
17 unique hash identifier.

18       203. After being connected to the BitTorrent swarm sharing the requested Motion Picture,  
19 each and every Defendant shared the Motion Picture between each other. Such action was done by  
20 breaking the larger work into smaller bits and giving and taking each bit from each other as needed  
21 to reassemble the infringing Motion Picture in its entirety on their computers.

22       204. Because of the foregoing facts, each and every Defendant participated in the same  
23 exact swarm, infringing upon Plaintiff's exclusive rights in its work by uploading (distributing) and  
24 downloading (reproducing) Plaintiff's copyrighted film. Through such action each Defendant  
25 assisted each other, as members for the same exact swarm, to download the same exact infringing  
26 work.

27       ///

28       ///

## **VI. FIRST CAUSE OF ACTION**

**(Copyright Infringement 17 U.S.C. §501)**

3 205. Plaintiff re-alleges and incorporates by reference each and every allegation set forth  
4 in paragraph 1-204 above, inclusive.

5        206. At all times relevant hereto, Plaintiff has been the producer and owner of the  
6 audiovisual work “Brandon & Pierce Unwrapped,” which Defendants willful and intentionally  
7 reproduced and distributed by and through the Internet using BitTorrent protocol.

8       207. Plaintiff is informed and believes and based thereon alleges that the U.S. Copyright  
9 Office received Plaintiff's full and complete copyright application on or about December 22, 2011.  
10 Receipt of a full and complete copyright application satisfies the registration requirements of the  
11 U.S. Copyright Office as well as this jurisdiction. Therefore, Plaintiff holds a federally registered  
12 copyright of the Motion Picture from the United States Copyright Office.

13        208. Among the exclusive rights granted to Plaintiff under the Copyright Act are the  
14        exclusive rights to reproduce the Motion Picture and to distribute it - rights willfully and  
15        maliciously infringed upon by Defendants.

16        209. Plaintiff is informed and believed and based thereon alleges that Defendants, without  
17 authorization, reproduced and distributed Plaintiff's copyright registered Motion Picture by and  
18 through the Internet using BitTorrent technology.

19        210. Defendants knew or should have known (and if they did not know it was only  
20 through willful blindness) that they were not authorized to reproduce or distribute Plaintiff's  
21 Motion Picture.

22        211. As a direct result of Defendants' infringing actions, Plaintiff is entitled to either  
23 actual or statutory damages pursuant to 17 U.S.C. §501(c), and to its attorneys' fees pursuant to 17  
24 U.S.C. § 505.

25           212. The conduct of Defendants is, and will continue to, cause Plaintiff serious  
26 irreparable harm. Said harm will continue unless Defendants are restrained from such conduct by  
27 this Court. Plaintiff has no adequate remedy at law to stop such conduct. Pursuant to 17 U.S.C. §§  
28 502 and 503, Plaintiff is entitled to injunctive relief stopping Defendants from further infringing

1 upon Plaintiff's exclusive rights, and ordering Defendants to destroy all copies of the Motion  
 2 Picture made in violation of Plaintiff's exclusive rights under the Copyright Act.

## 3           **VII. SECOND CAUSE OF ACTION**

### 4           **(Contributory Copyright Infringement)**

5           213. Plaintiff re-alleges and incorporates by reference each and every allegation set forth  
 6 in paragraph 1-212 above, inclusive.

7           214. Each Defendant has directly engaged in the unauthorized reproduction and  
 8 distribution of Plaintiff's copyright registered work as set forth above.

9           215. Each Defendant materially contributed to the direct infringement of the  
 10 aforementioned named Defendants by providing pieces of Plaintiff's copyright registered work to  
 11 those Defendants directly and/or by allowing those Defendants to download the infringing copies  
 12 from other peers more quickly and more efficiently by adding to the overall efficiency of the swarm  
 13 on the date in question.

14           216. Defendants, each and every, knew they were infringing upon Plaintiff's copyright  
 15 and knew the other swarm participates, including the other Defendants, also were infringing upon  
 16 Plaintiff's work.

17           217. Each of the peers who illegally downloaded the Motion Picture derived portions of  
 18 their illegal replication of the file from multiple peers including the other Defendants. At the same  
 19 time, each Defendant offered pieces of the file to help other peers, including the remaining  
 20 Defendants, replicate and compile new copies of the file.

21           218. When users all possess the same infringing work with the same exact hash number,  
 22 as is the case here, it is because each infringer possess an exact digital copy, containing the exact  
 23 bits unique to that file, of the original work. In essence, although hundreds of users may be  
 24 uploading the copyrighted work, you will receive only the exact parts of a singular upload, not a  
 25 compilation of available pieces from various uploads.

26           219. Defendants, each and every, published the exact same hash file to the BitTorrent  
 27 network.

28           ///

1       220. Each and every Defendant downloaded, uploaded and distributed the Motion Picture  
 2 to each other, in concert with one another, dependent on each other, and through use of the exact  
 3 same protocol.

4       221. Because it is the exact same Motion Picture, using the exact same hash, in the same  
 5 general time frame, the transaction of events at issue in this Complaint are common to all  
 6 Defendants, thus rendering the Defendants properly joined in this action.

7       222. Each Defendant assisted other members of the swarm, by either exchanging pieces  
 8 with that user directly or by providing an alternative source for peers thereby making the swarm  
 9 work more efficiently and increasing the speed in which each other Defendant was able to  
 10 download the entire Motion Picture.

11       223. The Defendants were conscious of their own infringement and of the fact that  
 12 multiple other persons derivatively downloaded from them the file containing Plaintiff's copyright  
 13 protected Motion Picture.

14       224. The infringement by other BitTorrent users could not have occurred but for the  
 15 Defendants' participation and the participation of others. As such, the Defendants' participation in  
 16 the infringing activities of others is substantial.

17       225. Each Defendant is contributory liable for the infringing acts of the other Defendants.

18       226. Each Defendant is jointly and severally liable for the harm Plaintiff suffered as a  
 19 result of the Defendants contribution in the infringement of its copyright registered work including  
 20 the continuing nearly limitless distribution of the infringing Motion Picture across the Internet.

21       227. As a direct result of Defendants' infringing actions, Plaintiff is entitled to either  
 22 actual or statutory damages pursuant to 17 U.S.C. §50(c), and to its attorneys' fees pursuant to 17  
 23 U.S.C. § 505.

24       228. The conduct of Defendants is, and will continue to, cause Plaintiff serious  
 25 irreparable harm. Said harm will continue unless Defendants are restrained from such conduct by  
 26 this Court. Plaintiff has no adequate remedy at law to stop such conduct. Pursuant to 17 U.S.C. §§  
 27 502 and 503, Plaintiff is entitled to injunctive relief stopping Defendants from further infringing  
 28 upon

1 ||| / / /

2 Plaintiff's exclusive rights, and ordering Defendants to destroy all copies of the Motion Picture  
3 made in violation of Plaintiff's exclusive rights under the Copyright Act.

## VIII. THIRD CAUSE OF ACTION (Negligence)

6           229. Plaintiff re-alleges and incorporates by reference each and every allegation set forth  
7 in paragraph 1-228 above, inclusive.

8        230. Defendants accessed or controlled access to the Internet connection used in  
9 performing the unauthorized copying and sharing of Plaintiff's Motion Picture as described above.

10       231. Plaintiff alternatively alleges that Defendants failed to adequately secure their  
11 Internet access, whether accessible only through their computer when physically connected to the  
12 Internet, or accessible to many computers by use of a router, and failed to prevent its unlawful use  
13 for the purposes alleged herein.

14       232. Reasonable Internet users take steps to secure their Internet access accounts to  
15 prevent the use of such accounts for nefarious and illegal purposes. As such, Defendants' failure to  
16 secure their Internet access accounts, and thereby prevent such illegal uses thereof, constitutes a  
17 breach of the ordinary care that reasonable persons exercise in using an Internet access account. In  
18 fact, more Internet service providers, including those who provided service for Defendants,  
19 generally require in their Terms of Service or Terms of Use that subscribers secure wireless routers  
20 with passwords.

21        233. Upon information and belief, Plaintiff alleges that Defendants' failure to secure their  
22 Internet access allowed for the copying and sharing of Plaintiff's Motion Picture on Defendants'  
23 respective Internet connections, and interfering with Plaintiff's exclusive rights in the copyrighted  
24 work.

234. By virtue of this unsecured access, Defendants negligently allowed the use of their  
Internet access accounts to perform the above-described copying and sharing of Plaintiff's  
copyrighted Motion Picture.

28 | / / /

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2        235. Had Defendants taken reasonable care and steps in securing access to their Internet  
3 connections, such infringements as those described above would not have occurred by the use of  
4 their Internet access accounts.

5        236. Defendants' negligent actions allowed others to unlawfully copy and share  
6 Plaintiff's copyrighted Motion Picture, proximately causing financial harm to Plaintiff and  
7 unlawfully interfering with Plaintiff's exclusive rights in the Motion Picture.

8        237. As a direct result of Defendants' infringing actions, Plaintiff is entitled to either  
9 actual or statutory damages pursuant to 17 U.S.C. §50(c), and to its attorneys' fees pursuant to 17  
10 U.S.C. § 505.

11       238. The conduct of Defendants is, and will continue to, cause Plaintiff serious  
12 irreparable harm. Said harm will continue unless Defendants are restrained from such conduct by  
13 this Court. Plaintiff has no adequate remedy at law to stop such conduct. Pursuant to 17 U.S.C. §§  
14 502 and 503, Plaintiff is entitled to injunctive relief stopping Defendants from further infringing  
15 upon Plaintiff's exclusive rights, and ordering Defendants to destroy all copies of the Motion  
16 Picture made in violation of Plaintiff's exclusive rights under the Copyright Act.

## **PRAYER FOR RELIEF**

18 || 1. For an injunction providing:

19 Defendant shall be and hereby is enjoined from directly or  
20 indirectly infringing upon Plaintiff's copyrights in the Motion Picture or  
21 any other works, whether now in existence or later created, that are owned  
22 or controlled by Plaintiff (or any parent, subsidiary, or affiliate of Plaintiff),  
23 including without limitation by using the Internet or any online media  
24 distribution system to reproduce (i.e. download) any of Plaintiff's works, to  
25 distribute (i.e. upload) any of Plaintiff's works, or to make any of  
26 Plaintiff's works available for distribution to the public, except pursuant to  
27 a lawful license or with the Plaintiff's express written consent. Defendant  
28 shall also destroy all copies of Plaintiff's works that Defendant has

1 downloaded onto any computer hard drive or server and shall destroy all  
2 copies of those downloaded works transferred onto any physical medium or  
3 device in Defendant's possession, custody, or control.

4 2. For damages for each infringement of each copyrighted work pursuant to 17 U.S.C.  
5 § 504. These damages may be actual or statutory, but if statutory damages are  
6 elected, the Defendant's acts were willful in nature, justifying an award of up to  
7 \$150,000 per infringement, and Plaintiff reserves the right to make such an election.

8 3. For Plaintiff's costs in this action.

9 4. For Plaintiff's attorneys' fees incurred in bringing this action.

10 5. For such other and further relief, either at law or in equity, general or special, to  
11 which they may be entitled.

12  
13 DATED: January 26, 2012 LANG, HANIGAN & CARVALHO, LLP.

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By s/ Arthur Carvalho, Jr.  
Arthur Carvalho, Jr.  
Attorneys for Plaintiff 808 Holdings, LLC.

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